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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,744	05/19/2004	Jean Philippe Vasseur	CISC868	4657
26541	7590	05/31/2005	EXAMINER	
RITTER, LANG & KAPLAN P.O. BOX 2448 SARATOGA, CA 95070			PHAM, BRENDA H	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/848,744

Applicant(s)

VASSEUR ET AL.

Examiner

Brenda Pham

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9, 16-18 and 20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 10, 11, 15, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/7/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-21 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 10, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Chiu et al (US 2002/0186658 A1).

Claims 1, 10, 19 and 21, Chiu et al discloses a method of operating a path computation element, said method comprising: determining that a fragmented bandwidths condition exists in a network, and in response to said fragmented bandwidth condition, causing rerouting of MPLS Traffic Engineering paths to increase likelihood of successfully placements (col. 1, [0006] and [0030]).

{Chiu et al discloses a method for selectively off-loading appropriate amounts of traffic from congested sub-regions of a network to more lightly loaded sub-regions of the network by applying explicitly routed label switching path of the label switching technology (MPLS). Using MPLS technology, traffic trunks containing lightly loaded links can be selected and traffic can be rerouted to the lightly loaded links with an uneven load-splitting ration to alleviate congestion.}

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5 Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu et al (US 2002/0186658 A1) in view of Allen et al (US 5,748,611).

Claims 2 and 11, as explained in the rejection statements of claims 1 and 10 (parent claims), Chiu et al discloses all the claimed limitation of parent claims.

Although Chiu et al does not teach distributing a reoptimization request (routing notifications, page 13 of specification) to a plurality of nodes within said network, this claimed limitation is well known in the art and is taught by Allen et al {When a path is disrupted, network notifies the path's source and destination nodes of the failure, (col. 5, lines 45-50)}.

Therefore, it would have been obvious to those ordinary skill in the art at the time of the invention was made to implement the step of distribute notification message to a plurality of node for making a fault notification to the involved nodes.

6. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu et al (US 2002/0186658 A1) in view of Proidl (US 2002/0049849 A1).

Claims 6 and 15, as explained in the rejection statements of claims 1 and 10

(parent claims), Chiu et al discloses all the claimed limitations of parent claims. Chui et al however does not teach the step of monitoring a failure rate in establishing paths; and comparing results of said monitoring to a failure rate criterion. This claimed limitation is well known in the art and is taught by Proidl, according to [0030]. {Proidl teach that the packet failure is a percentage of the data packets expected in the continuous data stream of received audio data AD, which is allowed to be missing before processing of the received audio data AD becomes substantially impossible.}

Therefore, it would have been obvious for those ordinary skill in the art at the time of the invention was made to implement the determination of failure rate, in Chiu et al to determine the quality value of transmission paths.

Allowable Subject Matter

7. Claims 7-9, 16-18 and 20 are allowed.
8. Claims 3-5, 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: the prior art made of record fails to teach or fairly suggest in combination a mechanism to alleviate bandwidth fragmentation in a network comprising the step of a plurality of nodes respond to the routing notification by requesting reoptimization of their own previously requested Traffic Engineering LSPs allowing the path computation element an opportunity to alleviate bandwidth fragmentation.

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Conclusion

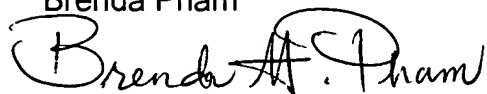
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (571) 272-3135. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

May 27, 2005

Brenda Pham

A handwritten signature in black ink that reads "Brenda A. Pham". The signature is written in a cursive style, with the first letter of each word being capitalized and prominent.